

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Daniel A. Walther,

Plaintiff,

v.

**Case No. 3:05-cv-426
Judge Thomas M. Rose**

TRW Automotive,

Defendant.

**ENTRY AND ORDER GRANTING DEFENDANT TRW AUTOMOTIVE'S
MOTION TO COMPEL DISCOVERY AND DEEM MATTERS ADMITTED,
(DOC. 8), SANCTIONING PLAINTIFF WITH DISMISSAL AND
TERMINATING CASE.**

This matter is before the Court for decision on Defendant's Motion to Compel Discovery and Deem Matters Admitted. Doc. 8. Therein, Defendant informs the Court that Plaintiff has failed to provide initial disclosures or respond to requests for production of documents, interrogatories, or Defendant's First Request for Admissions on Plaintiff Daniel Walther. Defendant informs the Court that responses were due May 22, 2006. Defendant further informs the Court that it has attempted to resolve this impasse informally. Defendant requests that the Court enter an order compelling discovery and an order deeming the matters referenced in the request for admissions to be admitted.

On June 22, 2006, the Court entered an order giving Plaintiff ten days to provide the requested discovery, or to show cause why he should not be sanctioned for failing to do so. Doc. 9. Plaintiff has yet to perform either action. Doc. 10.

According to the Rule 26(f) order in this case, disclosure of lay witnesses was due by May 19, 2006, disclosure of Plaintiff's primary expert was due May 19, 2006. Plaintiff's initial disclosures are overdue. Plaintiff's responses to discovery requests are overdue. The Court's order for the Plaintiff to provide this discovery has produced no action.

According to Federal Rule of Civil Procedure 37(b), "if a party fails to obey an order entered under Rule 26(f), the Court in which the action is pending may make such orders in regard to the failure as are just, and among others...dismissing the action or proceeding...." Fed. R. Civ. P. 36(b)(2)(C). Attempts by Defendant and the Court to gain Plaintiff's compliance with the rules governing discovery in this forum have proven futile. The Court finds dismissal a just penalty. Wherefore, Plaintiff's action is **DISMISSED** with **PREJUDICE**. The instant matter is ordered **TERMINATED** from the dockets of the United States District Court for the Southern District of Ohio, Western Division at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Tuesday, August 15, 2006.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE